PUBLIC UTILITIES COMMISSION
505 VAN NESS AVENUE
SAN FRANCISCO, CA 94102-3298

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April 14, 2016

Agenda ID #14815
Ratesetting

TO PARTIES OF RECORD IN INVESTIGATION 12-10-013 ET AL.:

This is the proposed decision of the Administrative Law Judge Division. Until and unless the Commission hears the item and votes to approve it, the proposed decision has no legal effect. This item may be heard, at the earliest, at the Commission's May 26, 2016 Meeting. To confirm when the item will be heard, please see the Business Meeting agenda, which is posted on the Commission's website 10 days before each Business Meeting.

Parties to the proceeding may file comments on this proposed decision as provided in Article 14 of the Commission's Rules of Practice and Procedure (Rules), accessible on the Commission's website at www.cpuc.ca.gov. Pursuant to Rule 14.3, opening comments shall not exceed 15 pages.

Comments must be filed, pursuant to Rule 1.13, either electronically or in hard copy. Comments should be served on parties to this proceeding in accordance with Rules 1.9 and 1.10. Electronic and hard copies of comments should be sent to the Intervenor Compensation Program at Icompcoordinator@cpuc.ca.gov. The current service list for this proceeding is available on the Commission's website at www.cpuc.ca.gov.

/s/ KAREN V. CLOPTON
Karen V. Clopton, Chief
Administrative Law Judge

KVC:ek4
Attachment

Decision **PROPOSED DECISION OF ALJ DIVISION** (Mailed 4/14/2016)

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Order Instituting Investigation on the Commission's Own Motion into the Rates, Operations, Practices, Services and Facilities of Southern California Edison Company and San Diego Gas and Electric Company Associated with the San Onofre Nuclear Generating Station Units 2 and 3.	Investigation 12-10-013 (Filed October 25, 2012)
And Related Matters.	Application 13-01-016 Application 13-03-005 Application 13-03-013 Application 13-03-014

DECISION DENYING THE CLAIM OF WOMEN'S ENERGY MATTERS FOR SUBSTANTIAL CONTRIBUTION TO DECISION 14-11-040

Intervenor: Women's Energy Matters	**For contribution to Decision (D.) 14-11-040**
Claimed: $247,566.40	**Awarded: $ 0 (Denied without prejudice)**
Assigned Commissioner: Catherine J.K. Sandoval	**Assigned ALJ: ALJ Division**

PART I: PROCEDURAL ISSUES

A. Brief description of Decision:	D.14-11-040, issued November 25, 2014, approves settlement, as amended and restated by settling parties.

B. Intervenor must satisfy intervenor compensation requirements set forth in Pub. Util. Code §§ 1801-1812:

	Intervenor	CPUC Verified
Timely filing of notice of intent to claim compensation (NOI) (§ 1804(a)):		
1. Date of Prehearing Conference (PHC):	1/8/2013	Yes.
2. Other specified date for NOI:		
3. Date NOI filed:	2/6/2013	Yes.
4. Was the NOI timely filed?		Yes. Women's Energy Matters (WEM) timely filed

		the notice of intent to claim intervenor compensation.
Showing of customer or customer-related status (§ 1802(b)):		
5. Based on ALJ ruling issued in proceeding number:	D.1411036 in R.1203014	Yes.
6. Date of ALJ ruling:	November 24, 2014	Yes.
7. Based on another CPUC determination (specify):		
8. Has the Intervenor demonstrated customer or customer-related status?		Yes. WEM demonstrated appropriate status in the proceeding.
Showing of "significant financial hardship" (§ 1802(g)):		
9. Based on ALJ ruling issued in proceeding number:	D.1310071 in R1005006	D.12-02-034.
10. Date of ALJ ruling:	October 31, 2013	February 16, 2012.
11. Based on another CPUC determination (specify):		
12. Has the Intervenor demonstrated significant financial hardship?		Yes. WEM demonstrated significant financial hardship.
Timely request for compensation (§ 1804(c)):		
13. Identify Final Decision:	D1411040	Yes.
14. Date of issuance of Final Order or Decision:	11-25-14	Yes.
15. File date of compensation request:	February 24, 2015	Yes.
16. Was the request for compensation timely?		No; See Part I.C below.

C. Additional Comments on Part I:

#	Intervenor's Comment(s)	CPUC Discussion
15	I.1210013 is still listed as active; D1411040 did not close the proceeding.	

15-16		No. Women's Energy Matters did not timely file the request for intervenor compensation. An intervenor may file a request for compensation within 60 days of the issuance of a decision. *See* Pub. Util. Code § 1804(c). Here, the final decision issued on November 25, 2014 and the final date for filing a request for compensation was January 25, 2015, since the 60th day fell on the preceding Sunday. *See* Rule 1.15, Rules of Practice and Procedure. WEM did not file until February 24, 2015. Intervenor's request was not timely and none of the extension provisions of Rule 1.15 apply. There has been at least one prior instance where the Commission granted an award on a claim that was untimely filed. However, we have since determined that the Commission does not have the discretion to grant awards on claims that are not filed in accordance with §1804(c). *See* D.15-07-017. The Public Utilities Code and the Commission's Rule of Practice and Procedure are clear. If a request for compensation is not filed and served within 60 days of the issuance of a final decision or the order closing the proceeding, the request is not timely and the intervenor is not eligible for compensation. WEM's request was not timely served and therefore, the Commission must deny the request for compensation. We note, however, that I.12-10-013 is still active. Because the proceeding is still open, we deny WEM's claim here without prejudice to allow WEM to refile a timely request for compensation if a subsequent decision is issued in this proceeding. Because of our ruling here, we do not address the balance of WEM's claim below.

PART II: SUBSTANTIAL CONTRIBUTION

A. Claimant's description of its substantial contribution to the final decision (*see* § 1802(i), § 1803(a), and D.98-04-059).

Intervenor's Claimed Contribution(s)	Specific References to Intervenor's Claimed Contribution(s)	CPUC Discussion

1. <u>General</u>. The consolidated proceedings (hereafter "OII"), addressed issues related to the outages of SONGS Units 2 & 3 in 2012. The OII was resolved by D1411040, which approved a settlement. This compensation request includes WEM's work in developing the record on multiple issues in the OII and our active participation as a non-settling party during the settlement phase. WEM fully participated in Phases 1, 1A, and 2; worked-up issues related to the cancelled Phase 3; attended the All Party Meeting in January 2014; and provided comments and cross-examined witnesses during the settlement phase. The Commission should find that D1411040 reflects WEM's substantial contribution as more fully detailed below. This was a complex and hard fought proceeding. The Commission itself needed to hire an outside consultant to help it understand technical issues. At p. 31, D1411040 states, "Settling Parties claim the magnitude of information and depth of analysis in the record underpinned the success of [their] substantial negotiations...". The Commission states that its approval of the Amended and Restated Settlement Agreement is "[b]ased on the entirety of the record established to date...". D1411040 at p. 5.	D1411040 at pp. 5, 30 and 31. *See also,* D1411040 at p. 3: "The Utilities and other parties provided substantial testimony, evidence, and argument during the proceedings to date, including claims by some that SCE bore fault in the design of the RSGs". D1411040 at p. 110: "The history of the consolidated proceedings makes clear this has been a hard-fought set of proceedings to date..." *See also*, "We appreciate the effort of all the parties who have submitted testimony and briefs in Phases 1, 1A, and 2, and participated in the evidentiary hearings to build a detailed and substantial record upon which the Commission may base its decisions. Assigned Commissioner and Administrative Law Judges' Ruling Requesting Settling Parties to Adopt Modifications to Proposed Settlement Agreement, dated 9-5-14 at p. 2.	No conclusion reached here. *See* Part I.C above.
2. <u>Legal</u>: Early in the proceeding SCE challenged the Commission's authority to order reduction in rates or rate base until the 2015 GRC. Commissioner Florio and ALJ Darling invited parties to brief this issue. WEM filed a brief refuting the utilities' narrow framing of the refund issue: "In effect, D12-11-051 extended the 2012 GRC into this OII. If procedurally necessary, the Commission should reopen A1011015 and consolidate it with OII 1210013." WEM Opening Brief on Legal Issues, 2-25-13 at p. 6. Comm. Florio and ALJ Darling issued a ruling siding with non-utility parties: "Other parties disagree and advance a more comprehensive understanding of the Commission's authority and responsibilities as set forth in the PUC and the OII. ... DRA, TURN et al., and WEM ... rely on section 451 which requires that all utility charges be "just	*See* Assigned Comm. and ALJ's Ruling on Legal Questions, 4-30-13 at p. 17-18: "IT IS RULED that .. (3) In this OII, the Commission has authority to conduct the deferred first reasonableness review of SONGS related expenses (100%) sought in A1011015, the SCE GRC, and to give final approval to post-2011 rates." *See also:* D1411040 at p. 15: "the Commission has legal authority to conduct the deferred final reasonable review of SONGS related expenses sought in 2012 GRC and immediately order refunds if warranted."	No conclusion reached here. Part I.C above.

and reasonable" in order to be lawful." Assigned Comm. and ALJ's Ruling on Legal Questions , 4-30-13 at p. 4; and "The Utilities generally ignore the express language of D1211051, instead focusing on retroactive ratemaking arguments and a claimed lack of notice of possible SONGS-related refunds. Some parties view this position as disingenuous both because D1211051 was explicit, but also because the Utilities should have known they would not recover the same amount from ratepayers for a non-operational nuclear power plant as an operational one." *Id.* at p. 16.	and D1411040, Conclusion of Law 1 and 2 at p. 134. *See also*, DRA/ORA's reply brief on legal issues, which favorably quoted WEM's Opening Brief on Legal Issues, stating that WEM refutes utility legal arguments. Reply of the Division of Ratepayer Advocates to Responses to the Order Instituting Investigation Regarding San Onofre Nuclear Generating Station Units 2 and 3, March 7, 2013, at p. 4.	
3. <u>Key Date for Ratemaking Treatment (Including SGRP and Base Plant Refunds):</u> WEM made a substantial contribution in developing the record that led to the choice of February 1, 2012, as the key date for calculating refunds. WEM argued that an early 2012 date be used for establishing ratemaking treatment. "The only 2012 costs that might be reasonable to recover from ratepayers are the January costs. ..." WEM Opening Brief in Phase 1, 6-28-13 at p. 3. WEM relied on technical reports in the record to support its position (see below). The Commission should find that WEM made a substantial contribution in developing the record that led to 2/1/12 as a key date in the Settlement Agreement.[1] *(a) <u>SGRP Costs</u>* D1411040 states at p. 7: "To what extent ratepayers are responsible for the costs of the	"The settlement establishes ratemaking treatment for the different expense categories, primarily by establishing February 1, 2012 as the key date for reducing ratepayer costs and calculation of refunds." D1411040 at p. 5. "As of February 1, 2012, approximately 1 billion of non-SGRP investment in SONGS (base plant) is removed from rate base..." D1411040 at p. 5. <u>*SGRP Costs*</u>: "... pursuant to the Agreement, all collection of SGRP-costs would stop and SGRP costs collected in rates after the shutdown would largely be refunded to ratepayers, including the vast majority of post-outage	No conclusion reached here. *See* Part I.C above.

[1] WEM's litigation position on the date for refunds was closer to the date reached in the settlement than DRA/ORA's. During litigation phase, DRA was willing to settle for November 1, 2012 as the date to remove net book value of SGRP and refund of capital-related revenues collected for the SG's. (DRA did reserve the right to revert to an earlier date depending on Phase 3 findings). The utilities argued that SGRP should be removed from rate base June 1, 2013, the date that SONGS was retired, and that they should be permitted to recover 100% of the net investment in SGRP as of that date, with an accelerated 5 year amortization period at 5.54% interest. TURN's litigation position was to remove Base Plan from rate base at the time of a Phase 2 decision. DRA suggested November 1, 2012. (See Joint Motion of Settling Parties for Adoption of Settlement Agreement, dated 4-3-14, at 9-11).

SGRP is at issue in this proceeding." WEM relied on the many technical reports in the record, and on our Phase 1 cross-exams of Mr. Perez and Mr. Palmisano,[2] to argue forcefully that ratepayers should not pay for SGRP costs. WEM suggested a very early cut-off date for ratemaking treatment related to SGRP costs: "[T]he leak in Unit 3 merely demonstrated what SCE already knew in January 2012 after the Unit 2 inspection: that all four steam generators (two each in Units 2 and 3) were heavily damaged; both reactors were susceptible to very early failure; and the restart plan was a risky 'experiment'." WEM Opening Brief in Phase 1, 6-28-13 at pp. 3-4. WEM directed the Commission's attention to the SONGS Unit 2 Return to Service Report (SCE Appendix 2 to SCE-2 and SCE-3, Attachment 1, Enclosure 2 at p. 30). This report found "unexpected" heavy wear in Unit 2. WEM Opening Brief in Phase 1, 6-28-13, at p. 7. "The seriousness of the degradation in all four steam generators can be seen in the Steam Generator Wear Depth Summary, Table 6-1 of the SONGS Unit 2 Return to Service Report.11 The number of damaged tubes is similar in all units — 734 and 861 in Unit 2 SGs and just a bit higher — 919 and 887 in Unit 3 SGs, although the total number of 'indications' of wear in Unit 3 SGs is considerably higher..." WEM Opening Brief. in Phase 1, p. 7. The Commission should find that WEM made a substantial contribution by developing the record on the damaged steam generators in Units 2 and 3, and making the recommendation that SGRP costs should be refunded. *(b) <u>Base Plant Taken Out of Rates</u>* WEM's work cited above challenged the utility's contention that the plant remained used	RSG inspection and repair costs. It is disputed whether SCE acted reasonably by pursuing the restart for more than a year." D1411040, p. 112.	

[2] *See e.g.,* WEM cross-examination of SCE witness Perez, Phase 1 EH, May 15, 2013, Vol. 4, at 594 *et seq.*, and WEM cross-examination of SCE witness Palmisano, Phase 1 EH, May 16, 2013, Vol. 5 at 837 *et seq*.

and useful in 2012 and 2013. In addition, in Phase 2 WEM challenged SCE's legal arguments that the plant should remain in rate base. In WEM-30 and in our cross-examination of SCE witness Russ Worden at Phase 2 EH, WEM challenged SCE's reliance on the Bluefield and Hope cases, because those cases involved utilities still providing a public service. We also cited the CPUC's Humboldt Bay Decision, to refute SCE-40's rate balancing arguments: "Staff points out that so far no nuclear power plant has exceeded its estimated useful life. Therefore, there is no rate balancing through an averaging of nuclear plants' service lives" [WEM-30, WEM Phase 2 Reply Testimony, 9/10/13, admitted to record 10/11/2013, at p. 10, quoting Humboldt Bay Decision, D85-08046 , A830949, 18 CPUC 2d 592 at p. 599] and "Conclusion of Law 1 - The Commission is obligated to exclude from rate base plant which ceases to be "used and useful."(Humboldt Bay Decision, at p. 603); WEM-30 at p. 11. See also, WEM cross-exam of SCE witness Worden, Phase 2 EH, Oct. 10, 2013, Vol. 13, pp. 2340-2342. The Commission should find that WEM made a substantial contribution in developing the record that led to base plant being removed from rates as of February 1, 2012.		
4. Steam Generator Inspection and Repair Costs Throughout 2012 and well into 2013, SCE publicly stated it intended to restart Unit 2. WEM challenged the financial viability of U2 restart from our very first filing, in which we drew the Commission's attention to Finding of Fact 153 in D0512040: "The split shutdown scenario is more costly than shutting both units down..." WEM Response to OII, dated 12-3-12, p. 6. "They avoided doing a cost effectiveness study in 2012 because they already knew the results in advance. Running just one unit was not cost-effective, running just one unit at 70% power even less so." WEM's Opening Brief in Phase 1, 6-28-13, p. 11 During the Phase 1 EH, WEM cross-examined	"For 2012, SCE ...will not recover in rates approximately $99 million spent in excess of the amount provisionally authorized in its 2012 General Rate Case D1411040, p. 6: "A reasonable plant operator would take steps after a leak such as the one in U3, to try to figure out what went wrong and try to fix it and restore generation. At some point this becomes unreasonable or cost-inefficient. Thus, the Agreement's disallowance and refund of about 2/3 of the SGIR costs is reasonable." D1411040, p. 89.	No conclusion reached here. *See* Part I.C above.

SCE VP Palmisano, who admitted under oath that Unit 2 and Unit 3 are an "identical design and, you know, it may be susceptible to what occurred in Unit 3." Phase 1 EH, 5/16/2013, Vol 5 at p. 851. "The high-risk, experimental nature of a restart already was or should have been abundantly clear to SCE management in February 2012." WEM Opening Brief in Phase 1 - 6-28-13, p. 10. WEM digested hundreds of pages of technical reports to challenge SCE's contention that U2 was not seriously damaged and could be restarted. WEM attended the All-Party Mtg. convened by Comm. Sandoval, and provided answers to her questions re: reasonableness of U2 Restart plan, citing evidence in the record that SCE should have known that a near term restart of U2 was not viable. At the meeting WEM contended the U2 restart plan was a pretense that needed to end. WEM cited evidence in the record, based on our work in Phase 1, that showed the restart plan for U2 was not viable. *See*: 1/14/14 Agenda for the All-Party Meeting Regarding the Proposed Decision in Rulemaking I.12-10-013, issued by Comm. Catherine Sandoval; *see* archived video of CPUC All Party Meeting - January 15, 2014 - SONGS Units 2 and 3 at http://www.californiaadmin.com/cpuc.shtml WEM challenged the Utility's 2012 Inspection and Repair costs: "Multiple re-inspections were unnecessary. SCE should have quit pretending it was viable to restart either unit at San Onofre and ... begun shutdown and decommissioning...". WEM Opening Brief Phase 1: 6-28-13 at p. 8. Despite all the evidence that came out in Phase 1 Evidentiary Hearings, SCE continued to argue that there was no support in the record to show that SCE's SGI&R 2012 expenses were unreasonable. SCE Ph. 1 Opening Brief, June 28, 2013, pp. 30-34. WEM refuted SCE's contentions in our Reply Brief, "On the contrary, many parties, including WEM, tried to put facts into the record on these and other		

issues." WEM Phase 1 Reply Brief, p.6. D1411040 reflects WEM's work challenging the U2 restart plan and SGIR costs, in that it approves a Settlement which effectively takes out of rates certain 2012 costs related to Steam Generator Inspection and Repair.		
5. <u>Use Decommissioning Trust Fund to Pay Some Post-Outage Costs</u>: WEM was perhaps the first party to suggest that some post-outage expenses should be recovered from the Decommissioning Trust Fund. WEM's Opening Brief in Phase 1, made a policy recommendation: "after mid-February 2012 disallow all costs other than what's needed for decommissioning. Then, charge the costs related to decommissioning to the decommissioning fund instead of rate recovery for 2012 expenses." WEM's Opening Brief in Phase 1, 6-28-13, p. 4. We repeated the recommendation in our Phase 1 - Reply Brief: "To the extent that safety, security, and environmental compliance are ongoing costs even in the decommissioning process, WEM agrees these should be recovered from ratepayers -- but we contend they already have been recovered, in the decommissioning fund, and SCE should be applying for them there, rather than in this proceeding." WEM Phase 1 Reply Brief, 7/9/13, p. 3. "Ratepayers have already paid over $4 billion into the SONGS Decommissioning Fund. In its Phase 1 brief, WEM suggested these funds be accessed to pay certain post-January 2012 expenses, and SCE has since stated it will seek Commission approval to access the decommissioning trust funds before formal decommissioning begins. WEM would support the judicious use of the trust funds but only if there is a thorough and ongoing reasonableness review." WEM-30 at p. 12-13. In the Phase 2 review of SONGS assets in rate base, WEM provided testimony related to nuclear waste storage infrastructure at the plant and cross-examined witnesses about CWIP costs related to that infrastructure. WEM's	D1411040, p. 27: "[a]mounts later recovered from the nuclear Decommissioning Trusts will be refunded to ratepayers." D1411040 at p. 91: "In addition, the Agreement directs the Utilities to seek recovery of CWIP completed after June 7, 2013 from the Nuclear Decommissioning Trusts, if possible."	No conclusion reached here. *See* Part I.C above.

contribution to the record, is reflected in D1411040's finding that some CWIP and O&M costs should be paid from the Decommissioning Trust Fund. WEM-30 - WEM Phase 2 Reply Testimony, entered into the record 10-11-2013. and WEM Phase 2 Rebuttal Testimony, WEM-31 ,admitted 10-11-2013, p. 6. WEM's policy recommendation to pay certain costs out of the decommissioning trust fund, and our Phase 2 work developing the record on nuclear waste storage infrastructure is reflected in D1411040's provisions that approve the use of Decommissioning Funds to pay certain post-outage expenses.		
6. <u>Replacement Resources</u> WEM challenged SCE's methodology for quantifying replacement power costs, stating utility methodologies would "result in false conclusions about costs." WEM Opening Brief in Phase 1A, 9-3-13, p. 2. WEM argued that "It is important to note that the costs of replacement resources were the bulk of the costs in 2012," and "Ratepayers' interests are a severe disadvantage." WEM Opening Brief on Phase 1A Issues, 9-3-13 at p. 12. WEM's Phase 1A cross-examination of Colin Cushnie helped quantify 2012 demand response programs and costs. Cushnie testified, "We implemented some programs. I can't tell you to what extent we called upon them. But we did implement some programs. Q: And is that cost listed? A: We did capture those demand response costs. For 2012, we recorded $2,769,000. EH, Vol. 7, p. 1362. WEM pointed out that although the utilities had large surpluses of energy efficiency money available to them during 2012, they did not institute programs that would utilize the EE money to make up for lost power. WEM Opening Brief on Phase 1A Issues, 9-3-13, pp. 7 ad 10. Throughout the proceeding WEM noted that Phase 3 would include a reasonableness review of replacement resources. Issues WEM raised in Phase 1A would get a more detailed hearing	D1411040 contains revisions from the October 10th Proposed Decision that clarify the Commission's understanding of the Replacement Power provisions of the Amended and Restated Settlement Agreement. *See* D1411040 at §7.2.7, p. 102: "The Agreement does not reach any conclusions about how replacement power costs should be calculated because, under the Agreement, replacement power costs are not treated differently than other purchased power costs." D1411040's discussion of replacement resources was revised to clarify the language, and settling parties granted a modification that slightly boosted ratepayer's share of NEIL claim recovery. *See* D1411040, Section 7.2.7, pp. 102-105; and p. 125-126: "The original Agreement allocated 17.5% of the replacement power insurance recovery to the utility. This outcome would have unreasonably benefited shareholders as to this one particular category of expenses for which liability had passed to	No conclusion reached here. *See* Part I.C above.

in Phase 3. This was yet another reason for the utilities to want to avoid Phase 3. See e.g., WEM Opening Brief Phase 1A, 9/3/13, pp. 12-13. The Commissioner and ALJ's September 5, 2014 Request for Modifications reflects a concern that ratepayers' interests could be at a disadvantage in the issue of replacement resources. They requested a modification related to payout provisions of the NEIL claim because "The original Agreement allocated 17.5% of the replacement power insurance recovery to the utility. This outcome would have unreasonably benefited shareholders as to this one particular category of expenses for which liability had passed to ratepayers." D1411040 at 125-126. During the settlement phase, WEM criticized the vagueness of the Proposed Settlement Agreement's replacement power provisions ¶4.10. See WEM Comments on September 5th Request for Modifications, p. 5. D1411040 reflects WEM's concerns in that it includes assurances that "In adopting Para. 4.10 of the Amended Agreement, we note that we approve neither a specific method for calculating replacement power costs nor any specific costs to be recovered from ratepayers. Instead, our adoption of para. 4.10 is merely an agreement that we will not disallow any costs on the basis that they are SONGS replacement power costs. The Utilities still must show (in ERRA or other relevant proceedings) that procurement costs complied with Commission rules and other applicable requirements. TURN,DRA, and other parties to those proceedings may still contest the recovery of those costs on grounds not related to SONGS replacement power. D1411040 at p. 105. The Commission should find that WEM made a substantial contribution in developing the record on replacement resources.	ratepayers.	
7. <u>Foregone Sales</u> Throughout the proceeding WEM advocated for ratepayer relief related to foregone sales. Our position was that foregone sales should be credited to ratepayers in calculating the cost of replacement power. *See e.g.*, WEM Comments	"Foregone sales are a hypothetical value of energy that could have been sold to non-bundled load (for the benefit of bundled ratepayers); there are no	No conclusion reached here. *See* Part I.C above.

on Sept. 5th Request for Modifications, 9/15/2014 at p. 4. WEM cross-examined SDG&E witness Andrew Scates, who revealed, "To my knowledge, we did not -- we did not have any new resources that we added due to the outage of SONGS," but that "there was a cost associated with the lost revenue from SONGS." EH, Vol 8, pp. 1462-1465. The wording of the Final Decision implies it is a benefit to ratepayers that the Settlement Agreement is not going to make ratepayers somehow responsible for income lost due to foregone sales. WEM argued that it was ratepayers who should be made whole for the dollar amount of Foregone Sales, suggesting that foregone sales should be deducted from any replacement power costs eventually recovered by utilities. Although WEM's position was that foregone sales should be credited to ratepayers, we are relieved that D1411040 at least contains an assurance that the cost won't be credited to the Utilities. WEM's advocacy work related to foregone sales is reflected by this assurance in D1411040.	recorded values for foregone sales. This provision of the Agreement simply means that the Utilities allowed recovery amount for replacement power is not reduced by any estimated value of foregone sales; ***no extra amount is recovered to represent foregone sales.***" D1411040 at p. 104 (*emphasis added*).	
8. <u>Social Costs of SONGS Shutdown Including Increased GHG Emissions</u>: In Phase 1A WEM addressed the impact of SONGS closure on CO2 emissions and the wholesale price of electricity. WEM argued that calculations of replacement power costs must quantify not only the cost of the resources, but also ... "the cost of GHG emissions" and that the Commission's valuation of replacement power should include "[r]eduction of all actual 2012 market costs to the levels of 2011, to reflect the fact that shortages were unnecessary and could have been avoided. ... because market prices would have been lower if 2,150 MW of baseload SONGS generation had been available to market." WEM-14 at p. 2. A4NR advocated regarding these issues during the settlement phase and the Commission requested a modification to address increased GHG emissions resulting from the SONGS closure. The Commission should find that WEM made a	At p. 120 of D1411040, referring to increased GHG emissions, the Commission states, "we share the concern about this adverse, albeit unquantified, consequence, particularly given that ratepayers would pay for all replacement power but receive less than 100% of power cost payouts from SONGS insurance. Therefore, we find the public interest would be met by shareholders directing funds to offset this significant consequent to SONGS ratepayers, including increased prices of electricity." FD at p. 120. *See also*, D1411040, Order number 5 at p. 140; and Commissioner and ALJ's Request for Modifications, 9-5-14 at p. 8-9	No conclusion reached here. *See* Part I.C above.

substantial contribution to D1411040 by advocating early in the proceeding that social costs of the outages, including increased GHG emissions should be accounted for.		
9. Community Outreach/ Emergency Preparedness: In WEM's initial Response to the OII, we recommended adding to scope, "[t]he costs of utilities' outreach, events and communications to promote the continued operation of SONGS." See WEM Response to OII, 's 12-3-12 at p.15 (item 5(e)) The issue was added to Phase 1 scope. *See* Scoping Memo and Ruling, 1-28-13 at p. 4. In Phase 1, SCE claimed they had "exhausted every reasonable avenue for communicating with the public about the outages." (p. 22), and that they had ***"updated the SONGS website periodically to stay current with the status of the outages"*** SCE Opening Brief on Phase 1 Issues, 6-28-13, at p. 49-50. WEM provided testimony and cross-examined witnesses challenging the quality and cost of SCE's outreach activities and documented that in fact SCE's website continued to portray the plant as safe, clean, affordable and reliable throughout 2012 and 2013. See WEM-3, WEM-8, EH, Vol 6, 5-17-13 at 1186 *et seq*. The Final Decision acknowledged WEM's contribution despite the Settlement Agreement's silence on the issue. The Commission should find that WEM's work on community outreach was a unique contribution and enriched the record in this proceeding.	D1411040 at pp. 107-108: "WEM argued for qualitative improvements to community outreach and emergency preparedness materials, and suggested that costs for misleading materials should be disallowed. WEM estimated the costs of the SONGS website as approximately $24 million per year." Enriching the record is a substantial contribution: *see* CPUC Decision 05-06-027 in R.01-08-028, issued June 17, 2005, at p. 3, which finds that if a customer provides a unique perspective that enriches the Commission's deliberations and the record, the Commission can find that the customer made a substantial contribution.	No conclusion reached here. *See* Part I.C above.
10. Settlement Phase: WEM actively participated as a non-settling party in the settlement phase, opposing the Settlement Agreement, and thereby making a substantial contribution towards improvements to the Amended & Restated Settlement Agreement including the following: *(a). Public Interest* WEM challenged the Proposed Agreement under Rule 12.1(d) as not being in the public interest. WEM Comments on Proposed	The Sept. 5th Ruling Requesting Modifications states, "WEM and others have argued the public interest is not served by insufficient Commission oversight of implementation of the proposed settlement." Assigned Commissioner and ALJ's Ruling Requesting Modifications, Sept. 5, 2014 at p. 11.	No conclusion reached here. *See* Part I.C above.

Settlement Agreement, May 7, 2014, at pp. 1, 3-4. Comm. Florio and the ALJ's Sept. 5th Ruling Requesting Settling Parties to Adopt Modifications stated at p. 2:" in its current form, the Agreement does not meet the Commission's criteria that the proposed settlement be in the public interest." D1411040 states that the amendments to the Agreement "significantly improve the public's interest in this settlement." D1411040 at p. 109. (b) *Improved Oversight, and Improvements to Third Party Recovery* WEM criticized provisions in the Proposed Agreement that stripped Commission oversight. At the settlement EH, WEM cross-examined SCE witness Litzinger regarding litigation costs and ORA Witness Robert Pocta about provisions in the Proposed Agreement that limited Commission oversight. See EH, Vol. 15 at p. 2705, pp. 2712-14; WEM Comments on Proposed Settlement Agreement, 5-7-2014, p. 5. In their September 5, 2014 Request for Modifications, Comm. Florio and the ALJ's stated: "WEM and others have argued the public interest is not served by insufficient Commission oversight of implementation of the proposed settlement." Comm and ALJ's Request for Modifications, 9-5-14 at p.11. Throughout the proceeding WEM noted SCE's contributory negligence in the SGRP failure, and during the settlement phase we cautioned this could lessen the amount of third party recoveries. WEM Comments on Proposed Settlement Agreement, 5-7-2014, p. 4. The September 5th Request for Modifications acknowledged that it may be "challenging to recover" some damages in the MHI litigation, and this was a rationale for requesting an increase to ratepayer share of recovery. See Comm & ALJ's Request for Modifications at p. 6.	"The Agreement has a few terms which unfairly disfavor ratepayers, and cannot be overcome by reading the Agreement as a whole. Moreover, we do not think the terms at issue will achieve the stated goals of the Settling Parties, in light of the Rule 12 requirements. Therefore, in this ruling, we identify certain changes (e.g., to ratepayer portion of third party recoveries, to address increased emissions, and to improve Commission oversight of the revised rate calculations)." Assigned Comm and ALJ's Request for Modifications, Sept. 5, 2014 at pp. 2, [see also, pp. 6, 7, 11, 12, 13.] *See also*, D1411040 at p. 2: "The original settlement agreement was amended and restated ... to provide that SCE and SDG&E shall each equally share net litigation proceeds from Mitsubishi Heavy Industries between their respective ratepayers and shareholders, and to improve Commission oversight of utility implementation of the settlement... ." *See* D1411040 at p. 29: "the Amended Agreement requires the Utilities to provide documentation of any final resolution of third-party litigation and of SONGS Litigation Costs. The Commission may review the documentation to ensure Litigation Costs are not out of proportion to the recovery obtained and that ratepayer credits are accurately calculated."	

The Commission should find that WEM made a substantial contribution by remaining active in the proceeding during settlement phase, voicing its opposition to the Settlement Agreement as a non-settling party.	*See* D1411040 at p. 44: "WEM opposes the terms of third party recovery as not beneficial for ratepayers, in part due to the low portion of recovery on the first $900 million. ... Moreover, adverse to the public's interest the Agreement strips Commission oversight of both the reasonableness of any settlement or charged costs, including attorneys fees." D1411040 at pp. 105-106: We find that with the Commission's general oversight authority and the specific provisions for Commission review adopted in Para. 4.11(g) and the additional oversight discussed in Section 9.5 below, ratepayers interests in third party recoveries are appropriately protected." D1411040 at p.122: "We consider the Commission's oversight of the implementation of the Agreement to be integral to our regulatory role and the public interest. The Settling Parties originally proposed an Agreement which had the effect of diminishing or eliminating the Commission's oversight and review for some actions and calculations necessary for implementation. Parties, including WEM, A4NR and CDSO, rightly criticized the restrictions as contrary to the public interest, particularly related to sharing of litigation recoveries." D1411040 at Conclusion of Law 15 ant 16: "15. Modifications to the Agreement that provide closer	

	Commission scrutiny of the Utilities' post-decision final revenue requirement calculations are in the public interest. 16. Modifications to the Agreement which increased the portion of third party recoveries to be allocated to ratepayers is in the public interest. D1411040 at p.136. D1411040 at pp. 128-129: "The Commission is presented with a complicated set of facts and issues for its evaluation of whether the Agreement, as amended, serves the public interest. ... It is a challenging assessment, however, the amendments provide better transparency, address unexpected GHG emissions, and provide tools for sufficient Commission oversight of final rate changes help tip the balance towards the public."	
11. Procedural-- Motion to Ensure Public Access: On May 8,2013, Judge Dudney issued an email ruling stating that the Phase 1 hearings would be transcribed by CPUC court reporters, but videotaping would not be allowed. WEM appealed the ruling by motion dated May 10, 2012, requesting that the hearings be webcast, and that video cameras be allowed. "WEM requests that the Commission provide a good-quality webcast of the entire week of evidentiary hearings in this case, which are currently scheduled for May 13-17, 2013. WEM Motion to Ensure Public Access to San Onofre Hearings, d. 5-10-13 at p. 2. "WEM's preference would be for the Commission to webcast the hearings in this case." Motion to Ensure Public Access at p. 6.	On Monday, May 13, the first day of Phase 1 hearings, ALJ Darling denied WEM's motion (EH, Vol. 2; p. 250) But she allowed WEM to make oral argument on a motion for reconsideration. (The full discussion is at EH, Vol. 2, pp. 250- 264.) A4NR, CDSO, DRA, Joint Parties and TURN supported WEM's motion for reconsideration. On Monday afternoon, Judge Darling reversed her decision, and allowed the webcast: "... we're willing to try it on a trial basis tomorrow. We will go live on webcast." Phase 1 EH, Vol. 2, 5-13-2013, p. 320:15-17. The webcasts continued throughout the proceeding and were a substantial benefit to the people most impacted by this proceeding -- Southern	No conclusion reached here. *See* Part I.C above.

	Californian ratepayers -- who were able to follow the hearings by webcast.	
12. <u>Enriched the Record</u>: On the last day of Phase 1 Evidentiary Hearings, ALJ Darling stated, "Any testimony that has not come in here, you are free to give it a try in another phase." Evidentiary Hearings, Vol. 6, p. 1241. Clearly, the threat of a continued Phase 3 investigation influenced the utilities decision to settle. Witness Marcus, cross-examined by WEM, said so much at the May 14th Evidentiary Hearing on settlement, stating that the SGRP refund was essentially "a proxy for a finding of some type of imprudence." ... EH, Vol. 15, May 14, 2014 at p. 2709. D1411040 affirmed Marcus's viewpoint: "The proposed settlement provides for disallowance of all SGRP costs, including CWIP, as of February 1, 2012, along with removal of Base Plant from rate base with reduced return. TURN's witness on the settlement stated he viewed these disallowances as a 'proxy' for a finding of unreasonable actions by SCE in Phase 3. We tend to agree." D1411040 at pp. 114-115 The work parties did regarding Phase 3 issues, whether it was ruled out of scope or not, put pressure on the utilities to settle, and therefore can be seen as a substantial contribution. The Agreement is to be read as a whole, which indicates trade-offs were made. To reach a settlement TURN and ORA compromised in exchange for concessions won. Non-utility parties did excellent work in the proceeding to work up the issues. Not all issues were resolved happily. WEM and other non-settling parties' work nevertheless enriched the record, and therefore made a Substantial Contribution to D1411040.	D1411040 at 109: "The Amended Agreement clearly represents a compromise between the litigation positions of the diverse settling parties and falls within the range of possible outcomes of the consolidated proceedings, if litigated further. Therefore, the Commission concludes that, even if not every provision of the Agreement is the best possible outcome for ratepayers based on the record, that the Agreement as a whole, and the provisions therein, are within the range of possible outcomes based on the record." Enriching the record is a substantial contribution: *see* CPUC Decision 05-06-027 in R.01-08-028, issued June 17, 2005, at p. 3, which finds that if a customer provides a unique perspective that enriches the Commission's deliberations and the record, the Commission can find that the customer made a substantial contribution. A substantial contribution includes evidence or argument that supports part of the decision, even if the CPUC does not adopt a party's position in total. -- D.0203033 at p. 3 The Commission should find that WEM made substantial contributions to D1411040, even though not all of our positions were adopted in total.	No conclusion reached here. *See* Part I.C above.

B. Duplication of Effort (§ 1801.3(f) and § 1802.5):

	Intervenor's Assertion	CPUC Discussion
a. Was the Office of Ratepayer Advocates (ORA) a party to the proceeding?[3]	**Yes**	*See* Part I.C, above.
b. Were there other parties to the proceeding with positions similar to yours?	**Yes**	*See* Part I.C, above.
c. If so, provide name of other parties: Alliance for Nuclear Responsibility, Coalition to Decommission San Onofre, Division of Ratepayer Advocates, Friends of the Earth, National Asian American Association, Ruth Henricks, The Utility Reform Network, World Business Academy		*See* Part I.C, above.
d. Intervenor's claim of non-duplication: WEM coordinated with other interveners throughout the proceeding to avoid duplication. Time entries document our phone calls and emails to other parties, CDSO and A4NR in particular, to avoid duplication and share resources when possible. Barbara George spoke with Faith Bautista of National Asian American Association during Phase 1, to confirm our distinct approaches to the community outreach issue. In addition to avoiding duplication, we pursued good relations and cooperation with all parties. Several of our filings summarized common ground in an effort to move the discussion forward. (E.g., Phase 2 Rebuttal Testimony/WEM-31, admitted 10-11-2014, Reply Comments on Proposed Settlement, 5-22-2014). To the extent duplication occurred, it was unavoidable given the complicated facts we were all working with, and the intransigence with which utilities held to their positions in Phases 1, 1A and 2.		*See* Part I.C, above.

PART III: REASONABLENESS OF REQUESTED COMPENSATION

A. General Claim of Reasonableness (§ 1801 and § 1806):

a. Intervenor's claim of cost reasonableness:	CPUC Discussion
As detailed in Section IIA above, many of WEM's Phase 1 & 2 litigation positions are reflected in D1411040. The settlement agreement will result in refunds/credits to ratepayers which settling parties have quantified as approximately $1.4 billion. This includes removal from rate base of Steam Generator net investment and Base Plant as of February 2, 2012. Additionally, $99 million in 2012 SG Inspection and Repair costs will be refunded. As others have noted, this monetary benefit is the shared result of work done by non-utility parties who showed up and worked diligently the past two years to refute SCE & SDG&E's contentions. WEM's continued participation as a non-settling party led to improvements to the	*See* Part I.C, above.

[3] The Division of Ratepayer Advocates was renamed the Office of Ratepayer Advocates effective September 26, 2013, pursuant to Senate Bill No. 96 (Budget Act of 2013: public resources), which was approved by the Governor on September 26, 2013.

Amended & Restated Settlement Agreement. Improved oversight provisions will save ratepayers additional tens of millions of dollars. Modifications to 3rd party provisions of the Proposed Agreement will significantly increase ratepayers' share of potential recoveries on the MHI and NEIL claims. WEM' s early advocacy that the Commission take into account increased GHG emissions as a consequence of the SONGS outages is reflected in the $25 million research grant ordered by D1411040. Reduced GHG emissions that may result will be a benefit to all. As a direct result of WEM's advocacy work, the hearings in this proceeding were webcast, allowing Southern California ratepayers and other interested Californians to follow the proceeding from their homes & offices -- a significant benefit to all. Our advocates' hourly rates are humble in comparison to the hourly rates of other participants; the dollar value benefit to ratepayer's of WEM's participation far exceeds the cost of our participation.	
b. Reasonableness of hours claimed: Three advocates represented Women's Energy Matters in this proceeding: Barbara George, Jean Merrigan and Dorah Shuey. We organized our work internally to maximize efficiency and avoid redundancy. Barbara George, founder and Executive Director of WEM, and long time advocate at the CPUC, authored all filings in the early stages of the proceeding. She was lead advocate in Phase1 & 1A, concentrating on nature and effects of the SGRP failure, invalidity of U2 restart plan (i.e., SGIR expenses should be refunded), & key date for refunds. She brought to this proceeding her expertise in energy efficiency, demand response and resource procurement, which helped develop the record on replacement resources in Phase 1A. Ms. George delegated the community outreach issue in Phase 1 to Jean Merrigan, and continued to supervise and strategize with her during Phase 2. Jean Merrigan wrote briefs and testimony and cross-examined witnesses during Phase 2 and continued as lead advocate during the settlement phase. She has a B.A. in history from U.C. Berkeley, and an M.A. in Radio and Television from SFSU. Previous experience includes many years working in the legal profession as well as documentary film production. Judge Gamson set her advocate's rate at $130/hour in 2014. Dorah Shuey joined the WEM team as an advocate during the settlement phase, co-authoring WEM's Comments on Proposed Settlement Agreement, and cross-examining witnesses at the settlement evidentiary hearing. Since 2012, she has worked as a research associate with Committee to Bridge the Gap. In 2012, she performed research on the rate of wear and failure of steam tubes in U.S. nuclear power plants' replacement recirculating steam generators. This research formed the basis for "Far Outside the Norm: The San Onofre Nuclear Plant's Steam Generators Problems in the Context of the National Experience with Replacement Steam Generators" (released September 2012), co-authored with Daniel O.	*See* Part I.C, above.

Hirsch, PhD. Ms. Shuey's rate at the CPUC has not yet been set; WEM requests an advocate's rate of $155/hour for Ms. Shuey's 2014 work in this proceeding. Her resume is filed herewith as Attachment 5.	
c. Allocation of hours by issue: See Attachment 4 (WEM List of Issues) for coding and description of issues. The breakdown is as follows: GEN = 2.8%, LEGAL=.5%, PHASE 1=38%, COMM= 5%, PHASE 1A=12%, PHASE 2=20.5%, SETTL=14.5%, WEBCAST=.7%, COMP=6%	*See* Part I.C, above.

B. Specific Claim:*

CLAIMED						**CPUC AWARD**		
ATTORNEY, EXPERT, AND ADVOCATE FEES								
Item	**Year**	**Hours**	**Rate $**	**Basis for Rate***	**Total $**	**Hours [1]**	**Rate $**	**Total $**
Barbara George, Advocate	2012	85.5	$180	D1310071	15,390	00.00	$00.00	$00.00
Barbara George, Advocate	2013	436.25	$185	D1411036	80,706.25	00.00	$00.00	$00.00
Jean Merrigan, Advocate	2013	748.25	$130	D1411036	92,272.50	00.00	$00.00	$00.00
Jean Merrigan, Advocate	2014	293	$130	D1411036	38,090	00.00	$00.00	$00.00
Dorah Shuey, Advocate	2014	55.25	$155	(Rate not yet set)	8,563.75	00.00	$00.00	$00.00
				***Subtotal:* $ 240,0022.50**			***Subtotal:*** $00.00	
INTERVENOR COMPENSATION CLAIM PREPARATION **								
Item	**Year**	**Hours**	**Rate $**	**Basis for Rate***	**Total $**	**Hours**	**Rate**	**Total $**
Barbara George	2013	3.5	92.50	D1411036	323.75	00.00	$00.00	$00.00
Jean Merrigan	2014	33.75	$65	D1411036	2193.75	00.00	$00.00	$00.00
Jean Merrigan	2015	70.25	$65	D1411036	4566.25	00.00	$00.00	$00.00
				***Subtotal:* $7,083.75**			***Subtotal:* $0.00**	

COSTS				
#	Item	Detail	Amount	Amount
	Photocopy & postage	Photocopy and postage (see receipts filed as Attachment)	460.18	00.00
TOTAL REQUEST: $ 247,566.40				**TOTAL AWARD: $ 00.00**

**We remind all intervenors that Commission staff may audit their records related to the award and that intervenors must make and retain adequate accounting and other documentation to support all claims for intervenor compensation. Intervenor's records should identify specific issues for which it seeks compensation, the actual time spent by each employee or consultant, the applicable hourly rates, fees paid to consultants and any other costs for which compensation was claimed. The records pertaining to an award of compensation shall be retained for at least three years from the date of the final decision making the award.

**Travel and Reasonable Claim preparation time typically compensated at ½ of preparer's normal hourly rate .

D. CPUC Disallowances and Adjustments:

Item	Reason
[1]	Because WEM did not file the request for compensation within 60 days, as required by Pub. Util. Code § 1804(c), the Commission must deny the request for compensation.

PART IV: OPPOSITIONS AND COMMENTS

A. Opposition: Did any party oppose the Claim?	No.
B. Comment Period: Was the 30-day comment period waived (*see* Rule 14.6(c)(6))?	No.

If not:

Party	Comment	CPUC Discussion

FINDINGS OF FACT

1. Pub. Util. Code § 1804(c) requires intervenors to file requests for awards within 60 days following issuance of a final decision.
2. This proceeding is active and future decisions may be issued by the Commission.
3. Women's Energy Matters filed its request for compensation more than 60 days after the issuance of D.14-11-040.
4. No hourly rates are set in today's decision.

CONCLUSION OF LAW

1. WEM's request for intervenor compensation, filed 91 days after D.14-11-040 issued, or 29 days late, is untimely under Public Utilities Code Section 1804(c) which requires a customer who has been found eligible for an award of compensation to file for such award within 60 days of the issuance of a final order or decision by the commission in the proceeding.

2. WEM's claim for intervenor compensation here should be denied without prejudice. WEM may refile its claim, provided it meets the requirements of Public Utilities Code Section 1804(c), after the Commission issues a subsequent decision in I.12-10-013.

ORDER

1. The claim of Women's Energy Matters, filed February 24, 2015, for its substantial contribution to Decision 14-11-040 is denied without prejudice.

2. The comment period for today's decision is not waived.

This decision is effective today.

Dated _____, 2016, at San Francisco, California.

APPENDIX
Compensation Decision Summary Information

Compensation Decision:		**Modifies Decision?**	No
Contribution Decision(s):	D1411040		
Proceeding(s):	I1210013		
Author:	ALJ Division		
Payer(s):	Southern California Edison Company, San Diego Gas & Electric, and Southern California Gas Company		

Intervenor Information

Intervenor	Claim Date	Amount Requested	Amount Awarded	Multiplier?	Reason Change/Disallowance
Women's Energy Matters	02/24/2015	$247,566.40	$00.00	N/A	*Did not timely file request for compensation*

Advocate Information

First Name	Last Name	Type	Intervenor	Hourly Fee Requested	Year Hourly Fee Requested	Hourly Fee Adopted
Barbara	George	Advocate	WEM	$180.00	2012	N/A
Barbara	George	Advocate	WEM	$185.00	2012	N/A
Jean	Merrigan	Advocate	WEM	$130.00	2013	N/A
Jean	Merrigan	Advocate	WEM	$130.00	2014	N/A
Jean	Merrigan	Advocate	WEM	$130.00	2015	N/A
Dorah	Shuey	Advocate	WEM	$155.00	2014	N/A

(END OF APPENDIX)